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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA
FIRST APPELLATE DISTRICT
DIVISION THREE

THE PEOPLE,

Plaintiff and Respondent,

v.

ALEJANDRO ANDRADE,

Defendant and Appellant.

A134884

(Sonoma County
Super. Ct. No. SCR611910)

Defendant Alejandro Andrade appeals from the judgment and sentence imposed following his entry of a no-contest plea on charges of attempted possession of metal knuckles and his admission of one prior strike. Defendant's appellate counsel has filed a brief pursuant to *People v. Wende* (1979) 25 Cal.3d 436, and requests that we conduct an independent review of the record. Defendant was informed of his right to file a supplemental brief and did not file such a brief. (See *People v. Kelly* (2006) 40 Cal.4th 106, 124.) We have conducted the review requested by appellate counsel and, finding no arguable issues, affirm the judgment.

FACTUAL AND PROCEDURAL BACKGROUND

In December 2011, the Sonoma County District Attorney filed a felony complaint, charging defendant with unlawful possession of metal knuckles (count I), in violation of Penal Code, section 12020, subdivision (a)(1),¹ and with public intoxication (count II), a misdemeanor in violation of section 647, subdivision (f). Further, the complaint alleged

¹ Further statutory references are to the Penal Code unless otherwise noted.

defendant suffered a prior strike conviction for assault with a deadly weapon with a gang enhancement (§ 245, subd. (a)(1); § 186.22, subd. (b)(1)), within the meaning of section 1170.12. Also, the complaint alleged defendant suffered a prior prison conviction within the meaning of section 667.5, subdivision (b).

According to the police report, the charges arose from an incident on the night of December 14, 2011. An officer conducting a security check on the grounds of a motel observed defendant walking towards the police car; defendant was agitated and throwing his hands in the air. The officer got out of the police car and asked defendant if he was all right; defendant yelled, “I’m just fucking happy man.” The officer noted defendant’s gait was unsteady, his speech was heavily slurred and he was wearing only a tank top despite the fact it was cold out. The officer asked if defendant was on parole or probation and defendant replied he was on probation. Defendant started to verbally ramble while flailing his arms around. Defendant was swaying from side to side and his eyes were watery. The officer confirmed defendant was on probation then placed him under arrest for public intoxication. In a search of defendant’s person incident to arrest the officer found a pair of metal knuckles in a front pocket of defendant’s jeans.

On December 22, 2011, the court suspended trial proceedings pursuant to section 1368 and ordered defendant to undergo a competency examination. Subsequently, the court received a psychologist’s report from Dr. Schneider. In his report, Dr. Schneider stated defendant did not evidence any condition that would functionally impair his ability to assist his attorney in his defense and opined that defendant was currently competent to stand trial. At a hearing held on January 20, 2012, the parties submitted on Dr. Schneider’s report and the court reinstated criminal proceedings. Thereafter, the parties informed the court defendant had accepted a plea agreement and signed a *Tahl* waiver.² Under the terms of the plea agreement, defendant agreed to plead guilty to

² A “*Tahl* waiver” or “*Boykin/Tahl* waiver,” as it is also known (see *Boykin v. Alabama* (1969) 395 U.S. 238; *In re Tahl* (1969) 1 Cal.3d 122, abrogation recognized in *People v. Howard* (1992) 1 Cal.4th 1132, 1174-1180) enumerates the consequences of a defendant’s plea or admission and includes express waivers of his or her constitutional

count I (amended at the request of the prosecution to charge attempted possession of brass knuckles) and to admit the prior strike conviction; in return the prosecution dismissed the other charge and allegations, and agreed defendant should receive a low term of 16 months imprisonment. Defendant acknowledged his understanding of the plea agreement and waiver of constitutional rights. The court found defendant had knowingly and intelligently waived his constitutional rights and found a factual basis for the plea based on the police report. Thereafter, the court accepted defendant's plea of no contest to the charge of attempted possession of metal knuckles and his admission of the prior strike. Defendant waived his right to a presentence report and the court immediately sentenced defendant to the low term of eight months (pursuant to § 664, subd. (a)), doubled on the strike conviction for a total term of 16 months, as agreed under the terms of the plea agreement. Defendant filed a timely notice of appeal (NOA) on March 12, 2012.

DISCUSSION

Defendant's NOA states the appeal is based on the sentence or other matters occurring after the plea that do not affect the validity of the plea. The record reflects defendant received the sentence he bargained for under the plea agreement. We have conducted an independent review of the record and we find no arguable issues relating to the imposition of sentence or any other matter occurring after entry of defendant's plea. Thus, having ensured defendant has received adequate and effective appellate review, we affirm the trial court's judgment. (*People v. Kelly, supra*, 40 Cal.4th at pp. 112–113; *People v. Wende, supra*, 25 Cal.3d 436.)

DISPOSITION

The judgment is affirmed.

rights to a jury trial, to remain silent and to confront witnesses. (See *In re Yurko* (1974) 10 Cal.3d 857, 863.)

Jenkins, J.

We concur:

Pollak, Acting P. J.

Siggins, J.